

RULEMAKING NOTICE FORM

Notice Number _____

Rule Number Env-Wq 403 (currently Env-Ws 388)

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority: RSA 485-C:4, XII

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment X

5. Short Title: Large Groundwater Withdrawals

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

RSA 485-C:21 requires that prior approval from the Department must be obtained before any person may withdraw more than a total of 57,600 gallons of water in any 24-hour period from a well or wells sited at a single property or place of business. The statute also specifies what information must be submitted with the application, what kind of notice must be given, when public hearings must be held and how notice of such hearings must be given, what criteria the department must consider in making a decision on the application, and what adverse impacts will not be allowed. Currently, the rules adopted by the Department classify such withdrawals as either minor, in which case they are governed by Env-Ws 387, or major, in which case they are governed by Env-Ws 388. The rules provide specificity to the statutory requirements and are designed to provide the information required by the statute to be considered by the Department. The existing rules set forth the procedures and standards for the development of a large groundwater withdrawal. The focus of the statute and the rules is to ensure that large groundwater withdrawals, when developed, do not adversely impact water users or resources that are influenced by the withdrawals. The existing rules also establish requirements for long term monitoring associated with a withdrawal permit, to ensure that a large groundwater withdrawal, once operational, does not cause an adverse impact that was unforeseen.

In this rulemaking, Env-Ws 388 is proposed to be readopted with amendments. The new rules will eliminate the distinction between minor and major large groundwater withdrawals and consolidate all requirements into one part, Env-Wq 403. The amendments are intended to (1) clarify the rules; (2) add requirements for certain licensed professionals to oversee procedures for well siting/ testing, and reporting/ monitoring; (3) reflect recent statutory changes to RSA 485-C as they pertain to large groundwater withdrawals; (4) establish a process for determining administrative completeness of submitted applications; (5) add specific vertical survey requirements for water level monitoring points included in the long-term monitoring plan associated with the withdrawal permit; and (6) establish water quality treatment system design criteria within the source replacement plan requirements.

6. (b) Brief description of the groups affected:

Persons wishing to obtain a permit for a large groundwater withdrawal and anyone else interested in the process will be affected by these rules.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented
Env-Wq 403 (see also specific section below)	RSA 485:3, XIII; RSA 485-C:21; RSA 485-C:22
Env-Wq 403.35	RSA 541-A:22, IV

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7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Debra Sonderegger	Title:	Principal Planner, DWGB
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-2862
		Fax #:	(603) 271-0656
		E-mail:	Debra.Sonderegger@des.nh.gov

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm> TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, September 8, 2009, 4:00 p.m.**

☒ Fax ☒ E-mail ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, August 28, 2009, 1:00 p.m.**

Place: **Rooms 110-112, DES Offices, 29 Hazen Drive, Concord, N.H.**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 09:122 , dated 07/27/09

See Attached.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules do not require any political subdivision to do anything, and so do not create, modify, or expand a program in such a way as to require action that cause political subdivisions to incur costs. The rules therefore do not violate Part I, Article 28-a of the N.H. Constitution.